

**TOWN COUNCIL MEETING  
COUNCIL CHAMBERS**

**APPROVED  
JULY 27, 2015**

1. Call to Order

Chairperson Thomson called the meeting to order at 7:01 p.m.

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Frank Dennett, Charles Denault, Jeffrey Pelletier and Kenneth Lemont.

5. Agenda Amendment and Adoption – None.

6. Town Manager's Report

Town Manager Puff reported that there was a robbery at the Fort Foster gates. Two suspects were apprehended and the funds were recovered.

Town Manager Puff stated that squid fishermen have still been using Pepperell Cove to fish. Port Authority has been directing people away from the new Pepperell Cove floats to the fish pier. This has been working well except in some instances where damage has been done to some dinghies and the pier as a result of the squid fishing.

Town Manager Puff noted that the Portsmouth Herald continues to report on the redirection of the Prescott Park Arts Festival (PPAF) stage to send the sound out across the river. Kittery residents are concerned that this will be a nuisance. Town Manager Puff reported that she has met with the leadership members from Portsmouth and the PPAF and expressed the concerns of the Kittery residents regarding the sound. She was assured that the intention is not to increase the volume on the Kittery side and that she will be kept apprised of progress and changes as the plan goes before the Planning and Review Board in Portsmouth. Town Manager Puff has also requested that current and projected base sound conditions be recorded to ensure that increased volume will be not be detrimental to the Kittery side.

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7. Acceptance of previous minutes – 5/11/2015

The minutes of 5/11/2015 were accepted as amended.

Acceptance of previous minutes – 5/27/2015

The minutes of 5/27/2015 accepted as amended.

8. Interviews for the Board of Appeals and Planning Board – None.

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials – None.

10. PUBLIC HEARINGS – None.

11. DISCUSSION

a. Discussion by members of the public –

Sam Reid of WILSSA came to the podium to discuss the Wood Island Station. Mr. Reid noted that the building is eligible for the national register and has been approved for \$700,000 in funding (\$200,000 from Park Service, \$200,000 from the State of Maine, \$200,000 from the EPA, \$100,000 in private donations). He noted that the building is rare as it is the only lifesaving station with a marine railway. Mr. Reid stated that the funding is in place for the cleaning and repair of the building but it requires three documents. The first is a 20 year preservation covenant to assign maintenance responsibility. The Park Service requires that this happen as soon as possible or they will award their \$200,000 in funding to another project, which would compromise the entire Wood Island Station project. This covenant has been edited, has been deemed acceptable by the State Historic Preservation Officer (the “SHPO”) and has been sent to the Town of Kittery and WILSSA by the SHPO and is ready for the Council to review and hopefully approve. Mr. Reid commented that a particularly important section of the document is that Kittery has the ability to enter into agreement with others to secure funding for the maintenance of the station. WILSSA believes that they have been, and will continue to be, successful at securing funding to cover maintenance costs and the taxpayers will not have to cover any costs. The second document is the concession agreement to allow WILSSA to operate the fully restored station open to the public to generate income to pay for maintenance. The intention of WILSSA is to create a small maritime museum in the station. A draft of this document was sent to this Council on July 13<sup>th</sup>. Mr. Reid commented that public opinion of the project is very high. Of a group polled at the Kittery Block Party, 100% agreed with the project. He mentioned that Bob’s Clam Hut is donating their tip jar to WILSSA for that week. The third

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document is the existing agreement between the Town of Kittery and WILSSA which would need to be amended to reflect the updates. The proposed changes were provided to the Council on July 13<sup>th</sup> as well. The current document leaves out key points such as maintenance and what will happen to the building once it has been cleaned and restored. Mr. Reid mentioned that, per Chairperson Thomson's request, WILSSA met with Town Manager Puff and Councilor Spiller two days after the July 13<sup>th</sup> meeting to discuss the documents. In order to compromise, WILSSA offered to push the concession agreement back in time and make its effectiveness dependent upon the outcome of the cleaning and exterior work on the building. They found that there is still considerable doubt regarding whether this document is necessary. WILSSA requests that the preservation agreement be approved as soon as possible and a clear process for going forward be laid out. Once all of these documents have been finalized, work could potentially begin next spring to clean and repair the station.

Robert Wiles came to the podium to discuss the robbery at Fort Foster. Mr. Wiles stated that he is proud of the police response and the composure of the woman in the booth to dial 911 and obtain the license plate number. He requested that the investigation into the matter be made public and added to the agenda. Mr. Wiles would like to see a more proactive response. He believes that Fort Foster has had increased criminal activity recently and noted that criminal and gang activity is moving north from Hampton Beach. He inquired as to whether or not the Department of Public Works has been made aware of the situation and if so, what measures are they taking to curtail incidents like this. Mr. Wiles raised several questions regarding current and future procedures such as: is a plan for enhanced police presence at Fort Foster, how often is it being patrolled, what actions are being taken to enhance safety, how is money being handled, how often is the money deposited, who takes the money to the bank and do they request a police escort, is there an emergency button installed in the booth which is connected to the Police Department, is there a phone in the booth, are there policies regarding staffing attendance at the booth and are the employees ever alone? He also requested to see police logs showing reports of police coverage in the area for at least the past month.

Barry Fitzpatrick came to the podium to discuss his family's parcel of land. He stated that his mother was approached by two men who wanted to buy her parcel of land abutting the Kittery Community Center to build a ball field. The two men told her that if she wanted to donate the land they would have the ball field named after his father. His mother requested that he act as overseer of the land as the heir to the family property. Mr. Fitzpatrick stated that on October 26, 2013, Chairperson Thomson requested that he meet with him and Mr. Mylroie, the Town Planner at that time. At said meeting, Chairperson Thomson expressed the idea of a "new center of town complete with updated town offices" which, if the parcel of land were to become Town of Kittery property, would enable the "vision" to materialize. Mr. Fitzpatrick declined the offer at that time. He stated that during a Council meeting a year ago, the Rice Library, a private entity, discussed their seven year quest to find a location for a new modern library and that the

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parcel of land adjacent to the KCC would be a great location for a new library. Mr. Fitzpatrick approached Ms. Perkins the following day regarding a parcel of land adjacent to the KCC which would make a superb location for a new library. The library board loved the idea. On August 20, 2014, the library board approached the KCC board with their idea. Mr. Workman approached Mr. Fitzpatrick and asked him if he would sell or donate the land to the KCC, which he declined, as he does not want to sell or donate any portion of his land to any Town of Kittery entity. He stated that Chairperson Thomson and Town Manager Puff were in attendance at that meeting. Mr. Fitzpatrick commented that before his father passed away, he offered a portion of the land to the Town of Kittery for free and they never acted on the offer. Mr. Fitzpatrick then asked the Council the following questions: 1. If the Council wanted Rice Library to stay where it is, then why the seven year tax payer dollar hoop jumping? 2. Why the clandestine architectural ploy of a parking facility with a library attached? 3. Why the coercive library budget disbursements threat? 4. Why the latest impediment, at the suggestion of Chairperson Thomson, of a committee – to do what? Mr. Fitzpatrick commented that he would like the Council to work together with the taxpayers and the citizens to provide assistance to the board of the Rice Library with their proven record of excellence of their professional and volunteer staff for a modern state of the art library facility.

Don Allen Kerr of Colonial Road approached the podium to discuss the Rice Library. He asked the Council why they tabled the funding issue at the last meeting and what they intended to accomplish by doing so. He stated that the action either needs to be withdrawn or acted upon and added that the motion, which he believes to be politically motivated, is an embarrassment to the town. Mr. Kerr believes that people will be watching the library committee with a great deal of interest and want it to help the library move forward and not be used as a tool to impede that process. He commented that he would like to know what the Council was thinking by appointing both a Council member and the Town Manager as voting representatives to the KCC. He stated that the Town Manager answers to the Town Council so they should not both be voting members. He stated that he believes this situation creates bias for certain agencies over other departments in the Town, specifically regarding the library project. Mr. Kerr commented that Chairperson Thomson has a conflicting interest in the project, which should be made public record, and he should be recused from all discussion of the project.

c. Chairperson's response to public comments

Chairperson Thomson commented that changes will be made to processes at Fort Foster and that the Town Manager will be reporting to the Council and the community with her updates at the appropriate time.

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Chairperson Thomson responded to the questions regarding library stating that Council has a workshop with the library on August 10<sup>th</sup> and regarding the motion pertaining to library funding saying that tabling the motion means that it has been postponed indefinitely.

**12. UNFINISHED BUSINESS**

(070215-1) The Kittery Town Council moves to discuss possible next steps regarding Wood Island Life Saving Station.

Chairperson Thomson commented that there was not a full Council and that any decisions regarding Wood Island should be made by the full body. He added that it seems clear that the majority of the Council would like to see the issue resolved in a way that would result in the life saving station being saved and maintained at no cost to the citizens of Kittery but he is unsure of how to get there. Chairperson Thomson stated that the land was transferred to the Town from the Federal Government and he does not understand why the town seems to be resistant to surrender the land to people who want to do something with it, especially since no money has been invested in it. He commented that there are many examples of historic sites which are maintained by non-profit organizations for the betterment of the site and the community. The non-profit must display the ability to raise money and have a direction, purpose and plan. WILSSA has all of these. Chairperson Thomson inquired as to the necessity of a concession and commented that damage to the site will not financially affect the Town of Kittery. He added that he would like to move forward and make sure that the Town does what it is responsible for and added that the Brownfield grant must be completed before any additional progress can be made.

Councilor Dennett commented that he must leave at 8:00 because his wife is ill but that he has reviewed the Town warrants and they look okay. He also stated that he has been receiving a large number of new or updated documents before every meeting and would like to see one final draft that is ready for review. Councilor Dennett inquired about flood and fire insurance for the property and asked who would be paying for and arranging the policies. He would like these details added to the draft document.

Mr. Reid responded to Councilor Dennett stating that flood insurance is required by the Park Service to receive the grant and he has already received an insurance offer from an agent for approximately \$3,000 per year which will cover the full amount of the \$200,000 grant. Mr. Reid added that WILSSA will be paying for the flood insurance but would like the approval of the preservation covenant before they go ahead with the policy. He also stated that they are not required to have fire insurance and therefore do not anticipate having it. Councilor Dennett asked Mr. Reid who will pay for weather damage. Mr. Reid responded that the language in the covenant agreement states that in the event of any significant event, WILSSA has a set period of

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time in which they must communicate to the Town whether or not they will fix the damage. Councilor Dennett commented that if WILSSA does not choose to fix the damage, the Town of Kittery is the loser in that situation. Mr. Reid responded that we would all be losers in that situation and added that he sent an updated version of the documents to Maryann Place on Wednesday and she sent it out to the Council on Thursday. The additional document that came from Vice Chairperson White was a version with his comments since he would not be present at the meeting. Councilor Dennett listed the documents which need to be reviewed, commented on his objection to use of the word “shall” in the documents and informed Mr. Reid that he would like to sit down with him separately and review the documents in detail.<sup>1</sup>

Chairperson Thomson asked Mr. Reid if the concession agreement would still be necessary if the Town was no longer in the picture. Mr. Reid stated that he would embrace suggestion as to how to go about change of ownership since they have not yet found an avenue to do that. He added that one option would be to partner with another government agency, such as the State of Maine, as a “voluntary reversion”. He has spoken with the General Services Administration (“GSA”) regarding this option.

Councilor Lemont questioned Mr. Reid about the Brownfield grant. Mr. Reid responded that the Brownfield grant covers the cleaning of the exterior and the interior of the property and that it has to be completed before the concession agreement takes effect. He clarified that the Brownfield grant is to clean, the Park Service grant is to repair and the State of Maine grant is to repair as well. All together they result in a clean building with a brand new exterior that is safe for the public. Councilor Lemont asked if there is anything they could do this evening to help the project to move forward. Mr. Reid requested that the Council confirm that they would be voting on the subject at the next meeting.

Councilor Denault suggested a motion as follows:

**THAT THE PRESERVATION COVENANT DATED JULY 22<sup>ND</sup> BE APPROVED AND A MUTUALLY AGREEABLE CONCESSION AGREEMENT WITH THE WOOD ISLAND LIFE SAVING STATION ASSOCIATION BE CREATED, VOTED ON BY COUNCIL, AND PROVIDED TO THE NATIONAL PARK SERVICE FOR THEIR REVIEW BY SEPTEMBER 1, 2015. THIS CONCESSION AGREEMENT SHALL INCLUDE PROVISIONS TO ASSIGN THE MAINTENANCE AND RESPONSIBILITY FOR THE STATION TO WILSSA. IT WILL TAKE EFFECT AFTER THE CLEANUP AND RESTORATION OF THE STATION’S EXTERIOR BUT MUST BE FINALIZED BEFORE ANY CONTRACTS ARE SIGNED TO BEGIN THAT WORK. IN ADDITION, THE “REPAIR AGREEMENT” BETWEEN KITTERY AND WILSSA WILL BE AMENDED IN A MUTUALLY AGREEABLE MANNER AND AVAILABLE FOR**

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<sup>1</sup> Councilor Dennett exited the meeting at 7:55 p.m.

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**COUNCIL'S VOTE BY NOVEMBER 1, 2015 TO REFLECT THE MUTUAL INTENTION OF COUNCIL AND WILSSA THAT THIS HISTORIC LIFE SAVING STATION BE FULLY RESTORED AND OPEN TO THE PUBLIC AS A MARITIME MUSEUM AT NO COST TO KITTERY.**

**COUNCILOR LEMONT SECONDED THE MOTION AND THEN MOVED TO TABLE THE MOTION. COUNCILOR DENAULT SECONDED THE MOTION TO TABLE.**

Chairperson Thomson supported the vote to table the motion. He commented that Mr. Reid is going to have a meeting with Councilor Dennett to review the documents and he would like to see a final document for the August 10<sup>th</sup> meeting that can be voted on that meets the test required by the Town of Kittery as the current owner of the property but gives WILSSA enough assurances to continue to move forward with the process. He also added that the wording but be tweaked.

**A ROLL CALL WAS TAKEN. MOTION DOES NOT CARRY: 3/1 (4 VOTES REQUIRED TO PASS)**

Councilor Pelletier asked Town Manager Puff if they had a final draft of the preservation covenant from the SHPO's office and Town Manager Puff responded that the draft is from the SHPO's office and stated that she did have comments regarding the draft and that she has concerns regarding the Town's affirmative obligation to make repairs as soon as the agreement is signed and the lack of an occupancy permit. She also noted that she spoke with Kirk, of the Maine Historic Preservation Commission, and he could not give her a definite timeline but encourages progress to be made. Councilor Pelletier then commented on the urgency of the project stating that there is no drop dead date for completion of the project and suggested that the Council not try to skip ahead in the process and allow the Town Manager to make a presentation to WILSSA about concerns and changes and continue to move forward with the process from there. Mr. Reid responded to the comment regarding the deadline stating that Bob Sutton, who is the head of the National Maritime Program and Park Service, is the person who is setting the "deadline" and he has already spoken with him requesting a softer deadline. Mr. Reid added that the most important issue at hand is that the Park Service needs the grant money to be distributed and if that does not happen soon they will withdraw their offer. He suggested that changes be made on the document over the course of the next week and it should be ready to sign by the next meeting on August 10<sup>th</sup>. Councilor Lemont commented on the collaboration between the different groups and added that the Council would like the Town Manager to be involved in the process and the motion at hand hinders that.

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Councilor Denault mentioned that the Council had a projected date of August 10<sup>th</sup> to review and approve the edited documents. Chairperson Thomson commented that there seems to be no hard and fast deadline. The real deadline for the grant money would be the end of the federal fiscal year, which is September 30<sup>th</sup>. He suggested that next week, Mr. Reid would sit down with Councilor Dennett and Town Manager Puff and discuss changes to be made in the document. Chairperson Thomson requested that by the next meeting on August 10<sup>th</sup>, the Council should either (a) have a motion to act on or (b) have an indication that significant progress has been made and communications have been made with SHPO and NPS. Councilor Pelletier commented that it is not necessary to set a deadline date because everyone is aware of the situation. He went on to mention that the Town of Kittery cannot give up responsibility for maintenance of the structure because they own it and whether WILSSA pays or not, Kittery is responsible for the covenant once the conservation agreement is signed.

Councilor Lemont requested clarification. He commented that he would like to move forward with the Brownfield grant, raise funds and have a concession agreement to sign. Mr. Reid responded that the concession agreement has a sentence that says Kittery can make arrangements with others to perform the maintenance. He added that both documents must go together. Councilor Lemont stated that the Council should pass something during the meeting to come before Council on August 10<sup>th</sup>. Chairperson Thomson responded that with only four people, it is unlikely anything would be passed and he would prefer Councilor Denault to withdraw his motion.

**COUNCILOR DENAULT WITHDREW HIS EARLIER MOTION. COUNCILOR LEMONT WITHDREW HIS SECOND OF THE MOTION.**

**13. NEW BUSINESS**

- a. Donations/gifts received for Council disposition – None.
- b. (070215-1) The Kittery Town Council moves to approve the disbursements warrants.

**CHAIRPERSON THOMSON MOVED TO APPROVE THE DISBURSEMENT WARRANTS IN THE TOTAL AMOUNT OF \$143,471.26. SECONDED BY COUNCILOR PELLETIER, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

**14. COUNCILOR ISSUES OR COMMENT**

Councilor Lemont commented on the issue of lowering the speed limit from the intersection of Manson and Shapleigh roads to the Kittery Point Bridge from 30 mph to 25 mph. Town Manager Puff responded that she has not received an answer on that issue yet.



Councilor Lemont suggested that Fort Foster open at 9:00 a.m. instead of 10:00 a.m. to give families, especially those with small children, an extra hour in the morning. He also mentioned the issue of conflicts of interest with the KCC board. Councilor Denault responded that he had paperwork on the subject that he could forward to Councilor Lemont. Councilor Lemont then commented that he did not believe that the Chair has any conflict serving on the KCC board. Chairperson Thomson responded that the makeup of the KCC board, which included a Council representative and the Town Manager, was decided on in the spring of 2012 and no one objected at that time.

Councilor Denault passed out pictures to the Council of an injury received by a local firefighter. He explained that while on a call, the firefighter was injured when a ladder crushed his toes and some of them had to be amputated. Councilor Denault explained that worker's compensation only paid for about two thirds of his salary and his loss of work has compromised his ability to pay his bills. He commented that he would like to help this firefighter with his loss of salary. He suggested organizing a fund raiser to assist him and his family. Councilor Denault then went on to explain that injury on duty compensation does not meet civilian salary and could ultimately result in fewer volunteers. He suggested that safety measures be added and a review of the situation be done to see if any errors occurred. He also proposed giving direction to the Fire Chief to review their policies and looking into Aflac or Colonial insurance to offset the loss experienced by injured firefighters. He commented that the newspaper reported that the man was fine when in fact he was not and the picture he has presented shows the actual injuries sustained.

Councilor Denault commented that he had received word from the gate person at Fort Foster that Commissioner Albert followed up with her and would like to commend Commissioner Albert on his caring and compassion for following up on the situation and to the Town Manager for getting word out to the Town Council. He also noted that paving operations have been posted on the Town's website and that comments or concerns should be directed to the Town Manager. He then read the list of names of those citizens who have passed away in the past few weeks. The list included the following people:

Alden Kenneth Niles  
Dorothy M. (Tiano) Horton  
Leigh (Moulton) Moulton  
Lillian H. (Snelgrove) True  
Corinne T. (Tunney) Perry  
Barry Arthur Fletcher  
Alphonse E. Tanguay  
Irene E. "Nana" (Renie) Cejka  
Russell E. Hersey

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Eric Hoff “Rick/Bopa” Lindquist  
Patricia Grace “Tesse” (Leary) Smykowski  
Dorothy Spinney (from Eliot, bookkeeper at the Navy Yard & Dow Oil Companies)

**15. COMMITTEE AND OTHER REPORTS**

**a. Communications from the Chairperson**

Chairperson Thomson noted that he was copied on emails sent from the KCC regarding the service of those who attended the Navy/Shipyard conferences at the KCC which stated that the staff has been very accommodating and added that the Star Theater and KCC are becoming known up and down the east coast as the place for the U.S. Navy to have its meetings. He commented that he stopped into the annual lobster bake at the KCC last week and noted the beautiful setting. He then went on to state that KCC is moving towards becoming a self-supporting enterprise and that the positive comments that are received are worth more than a monetary value.

**b. Committee Reports – None**

**16. EXECUTIVE SESSION – None.**

**17. ADJOURNMENT**

**COUNCILOR PELLETIER MOVED TO ADJOURN, SECONDED BY  
COUNCILOR DENAULT WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:26  
P.M.**